



ATTORNEY DOCKET NO. 19124.0002U1

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of )  
de la Guardia *et al.* ) Art Unit: 1615  
Application No. 10/654,233 ) Examiner: Venkat, Jyosthna A  
Filing Date: September 2, 2003 ) Confirmation No. 4734  
For: METHODS OF NEUTRALIZING )  
RELAXES HAIR AND COMPOSITIONS )  
FOR SAME )

**ELECTION UNDER RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.  
Customer Number 23859

Sir:

This is in response to the Restriction Requirement of October 27, 2006. Because a response was due on November 27, 2006, a Request for Extension of Time is also enclosed.

The Restriction Requirement alleges that there are six (6) inventions: Invention (I) related to Claim 2, drawn to a system for neutralizing hair and kit comprising mousse concentrate and propellant, wherein the propellant is carbon dioxide, classified in class 424, subclass 70.2; Invention (II) related to Claim 3, drawn to a system for neutralizing hair and kit comprising mousse concentrate and propellant, wherein the propellant is one or more of hydrocarbon or hydro fluorocarbon or dimethyl ether, classified in class 424, subclass 70.2; Invention (III) related to Claim 4, drawn to a system for neutralizing hair and kit comprising mousse concentrate and propellant, wherein the propellant is a mixture of carbon dioxide and one or more of

hydrocarbon or hydro fluorocarbon or dimethyl ether, classified in class 424, subclass 70.2; Invention (IV) related to Claim 20, drawn to a method for neutralizing hair comprising providing hair with a relaxing agent and contacting the relaxed hair with one or more of a neutralizer mousse composition, where in the neutralizer mousse composition comprises mousse concentrate and propellant, wherein the propellant is carbon dioxide, classified in class 132, subclass 205; Invention (V) related to Claim 21, drawn to a method for neutralizing hair comprising providing hair with a relaxing agent and contacting the relaxed hair with one or more of a neutralizer mousse composition, where in the neutralizer mousse composition comprises mousse concentrate and propellant, wherein the propellant is one or more of hydrocarbon or hydro fluorocarbon or dimethyl ether, classified in class 132, subclass 205; and Invention (VI) related to Claim 22, drawn to a method for neutralizing hair comprising providing hair with a relaxing agent and contacting the relaxed hair with one or more of a neutralizer mousse composition, where in the neutralizer mousse composition comprises mousse concentrate and propellant, wherein the propellant is a mixture of carbon dioxide and one or more of hydrocarbon or hydro fluorocarbon or dimethyl ether, classified in class 132, subclass 205.

As required in response to the Restriction Requirement, applicants provisionally elect Group (V), Claims 10-19, 21, and 23-26, with traverse. To this end, it is Applicants understanding that at least elected Claim 21, as well as claims 10-19 and 23-26, will be examined in this application. In particular, the Restriction Requirement states that Inventions (I), (II), and (III) are directed to related distinct products, linked by product Claims 1 and 5-9, and that Inventions (IV), (V), and (VI) are directed to related distinct methods, linked by method Claims 10-19 and 23-26. The Restriction Requirement also states that the restriction requirement

between linked Inventions (IV), (V), and (VI) is subject to the non-allowance of the linking claims 10-19 and 23-26. Still further, the Restriction Requirement sets forth that upon the indication of allowability of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn. Accordingly, it is Applicants understanding that a potential indication of allowability of the linking claims 10-19 and 23-26 necessarily requires an examination of all linking claims 10-19 and 23-26 in this application.

Applicants acknowledge that, upon allowance of a linking claim as set forth above, applicants will be entitled to consideration of non elected claims which are written in dependent form or otherwise include all the limitations of an allowed linking claim.

Applicants respectfully request that the entire restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

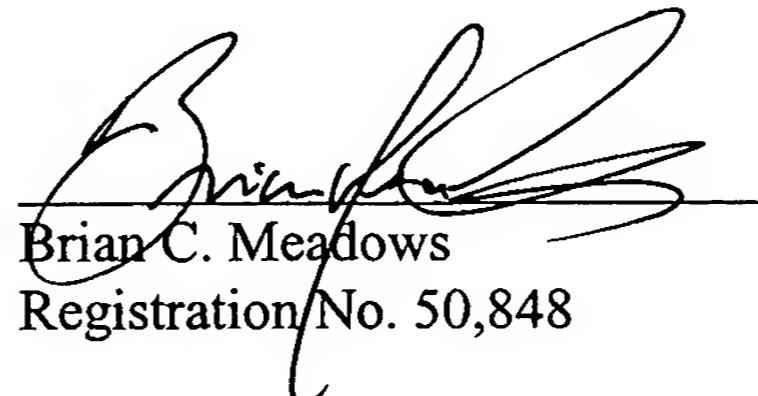
Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden. Applicants respectfully assert that the Examiner has not shown that the second requirement has been met, on the basis that the Examiner has not shown that it would be serious burden to search and examine all of the claims together.

A Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$510.00, representing the fee for a small entity under 37 C.F.R. § 1.17(a)(3) and a Request for Extension

of Time are enclosed. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.



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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.



Brian C. Meadows

2-27-2007

Date